



Linda S. Adams  
Secretary for  
Environmental Protection

# California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control  
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment  
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger  
Governor

Certified Mail: 7003 1680 0000 6174 8975

April 4, 2007

Mr. Howard Wines  
Director  
Bakersfield City Fire Department  
900 Truxton Avenue, Suite 210  
Bakersfield, California 93301

Dear Mr. Wines:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of Bakersfield City Fire Department's Certified Unified Program Agency (CUPA) on March 6 and 7, 2007. The evaluation was comprised of an in-office program review and field oversight inspections. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

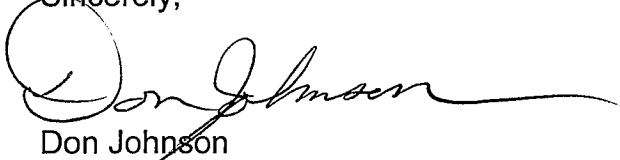
The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Bakersfield City Fire Department's program is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Status Reports to Cal/EPA that depicts your agencies progress towards correcting the identified deficiencies. Please submit your Deficiency Status Reports to Kareem Taylor every 90 days after the evaluation date. The first deficiency progress report is due on May 8, 2007.

Cal/EPA also noted during this evaluation that Bakersfield City Fire Department has worked to bring about a number of local program innovations, including: the execution of 14 AEOs since the year 2000 for a total of approximately \$55,000 in fines assessed. In addition, the CUPA has maintained a two year inspection frequency for business plan and CalARP facilities. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Don Johnson", with a long, sweeping horizontal line extending to the right.

Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

cc: Mr. Terry Snyder (Sent Via Email)  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Mr. Mark Pear (Sent Via Email)  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 210  
Berkeley, California 94710-2721

Mr. Brian Abeel (Sent Via Email)  
Governor's Office of Emergency Services  
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Rancho Cordova, California 95741-9047

Mr. Kevin Graves (Sent Via Email)  
State Water Resources Control Board  
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Sacramento, California 94244-2102

Mr. Charles McLaughlin (Sent Via Email)  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Ms. Vickie Sakamoto (Sent Via Email)  
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P.O. Box 944246  
Sacramento, California 94244-2460

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cc: Mr. Mickey Pierce (Sent Via Email)  
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700 Heinz Avenue, Suite 210  
Berkeley, California 94710-2721



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## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

**CUPA: Bakersfield Fire Department**

**Evaluation Date: March 6 and 7, 2007**

### **EVALUATION TEAM**

**Cal/EPA: Kareem Taylor**  
**Cal/EPA: Jennifer Lorenzo**  
**SWRCB: Terry Snyder**  
**OES: Brian Abeel**  
**DTSC: Mark Pear**

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

		<b><u>Preliminary Corrective</u></b>
	<b><u>Deficiency</u></b>	<b><u>Action</u></b>
1	<p>The CUPA's Consolidated Permit Program Plan is missing a flow chart describing the Unified Program's permitting procedures. The flowchart should include timeframes for each procedure and time limits for appeals processes.</p> <p>Title 27, Section 15190 (c)(2) (Cal/EPA)</p>	<p>By June 7, 2007, include a flow chart describing the Unified Program's permitting procedures into the CUPA's Consolidated Permit Program Plan.</p> <p>Please submit the flow chart along with the deficiency status report to Cal/EPA.</p>
2	<p>The CUPA's Inspection and Enforcement Plan is missing two required elements. The inspection component is missing the following elements:</p> <ul style="list-style-type: none"> <li>• The number of regulated businesses within each program element.</li> <li>• A schedule of the frequency of inspections to be conducted.</li> </ul> <p>Title 27, Section 15200 (f)(1)(A)(B) (Cal/EPA)</p>	<p>By June 7, 2007, include the following in the inspection component section of the CUPA's Inspection and Enforcement Plan:</p> <ul style="list-style-type: none"> <li>• The number of regulated businesses within each program element.</li> <li>• A schedule of the frequency of inspections to be conducted.</li> </ul> <p>Please submit the revised inspection</p>

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		component along with the deficiency status report to Cal/EPA.
3	<p>The CUPA is not sending information pertaining to underground storage tank program using Report 6 on a quarterly basis. The CUPA has not submitted reports for the last two quarters and only 2 quarterly Report 6s in the last three years.</p> <p><b>HSC 25299.7 (b) (SWRCB)</b> <b>Title 27, Section 2713</b></p>	By March 14, 2007, submit Report 6 for the October – December 2006 quarter and continue to submit Report 6 when due.
4	<p>The CUPA is not conducting inspections with a frequency that is consistent with its Inspection and Enforcement Plan and with the inspection of other program elements. The CUPA has not inspected all 627 hazardous waste generators that have been identified by the CUPA. The last three annual inspection summary reports indicate the following:</p> <ol style="list-style-type: none"> <li>1) 540 hazardous waste generators were identified in Fiscal Year 03/04 of which 17 were inspected.</li> <li>2) 619 hazardous waste generators were identified in Fiscal Year 04/05 of which 25 were inspected.</li> <li>3) 627 hazardous waste generators were identified in Fiscal Year 05/06 of which 132 were inspected.</li> </ol> <p>The CUPA has inspected approximately 28% of all known facilities generating hazardous waste over the past three fiscal years. Further improvement may be made.</p> <p><b>Title 27 Section 15200 (a)(b)(1) &amp; (2) (DTSC)</b></p>	<p>By March 7, 2008, and annually thereafter, the CUPA should inspect at least one third (33% per year) of its hazardous waste generator facilities.</p> <p>Additional resources need to be committed to the generator program within one year.</p>
5	<p>The CUPA is unable to document that all facilities that have received a notice to comply citing minor violations have returned to compliance within 30 days of notification. Either the business must submit a Return to Compliance (RTC) Certification in order to document its compliance or in the absence of certification the CUPA must re-inspect the business to confirm that compliance has been achieved. DTSC observed the following:</p> <ol style="list-style-type: none"> <li>1) No RTC or re-inspection report was found for the 10/27/2004 inspection of Gillet Trucking located at 5503 Woodmere Drive in Bakersfield, CA.</li> </ol>	<p>By June 6, 2007, document RTC certifications from owners/operators cited for minor violations with either a re-inspection report or a signed RTC form.</p> <p>Please submit two recent copies of completed RTC certifications and/or two re-inspection reports along with the deficiency status report to Cal/EPA.</p>

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	<p>2) No RTC or re-inspection report was found for the 07/14/2003 inspection of Amigo's Auto Repair located at 6620 South Union in Bakersfield, CA.</p> <p>3) Re-inspection to determine compliance for 12/02/2003 inspection of Pacific Wood Preserving located at 5601 District Blvd in Bakersfield, CA was performed on 11/22/2006.</p> <p>HSC section 25187.8 (g)(1) (DTSC)</p>	
6	<p>The CUPA's 2007 area plan does not contain all the required elements. The following elements are missing:</p> <ul style="list-style-type: none"> <li>• Training</li> <li>• Incident Critique and Follow-up</li> </ul> <p>HSC Section 25503 (c) (4), (6), (8) (OES) Title 19, Sections 2725, 2727, 2728</p>	<p>By September 31, 2007, amend the area plan to include those missing elements. And, include this amended area plan with the submission of the 2<sup>nd</sup> deficiency status report.</p>


CUPA Representative

Howard Wines  
(Print Name)

  
(Signature)

Evaluation Team Leader

Kareem Taylor  
(Print Name)

  
(Signature)

## **PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

*The observations and recommendations provided in this section address activities the CUPA is implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.*

1. **Observation:** The CUPA currently is developing a system to mail facility owners/operators a self-certification form so that owners/operators may certify Return to Compliance (RTC) for minor violations by mail. After an inspection, the CUPA does not present a RTC form to facility owners/operators who have been cited for minor violations. Presenting a RTC form for owners/operators to certify RTC by signature will allow owners/operators to certify RTC more easily and efficiently.

**Recommendation:** Develop an RTC form to present with the Notice to Comply for facility owners/operators who have been cited for minor violations. Present the RTC form to facility owners/operators whenever a Notice to Comply is issued.

2. **Observation:** The CUPA is in the process of converting their regulated business files from the hard copy version to the electronic file format. The electronically scanned files are accessible via the City's website through the LaserFische program. Files are easily accessible by the public in this sense; however, files are organized by the street number and address, respectively in that order, and not by a facility name or address. A DOS-based database management program called SEED, which has been in use by the CUPA for at least 20 years, complements the files in the LaserFische database system as it is not capable of capturing long files such as the AEO files. More recent files received by the CUPA are maintained as hard copy files within file cabinets in a storage room, organized by street address and street number, respectively in that order. Each facility files are located in a main facility file folder; each Unified Program element is in separate sub-folders within the main facility file folder.

Many files within the LaserFische database system have been mis-filed or placed in the incorrect program element. Inspection reports were also difficult to locate within each folder. Many scanned documents were duplicated within a folder or in other folders. Many of the files not found were in transition; for example, the complete files of the two AEO cases held in fiscal year 2005-2006 were not found in the file room, nor documented in the DOS SEED program.

**Recommendation:** The CUPA needs to do a comprehensive maintenance of the LaserFische files to ensure that all program files are in the proper folders and that files are not being duplicated. There should also be a mechanism to search for a file by facility or business name within the LaserFische program. Prior to submitting files to be scanned to LaserFische, ensure that all information has been documented into the SEED program, and also before hard copy files are disposed after being scanned, the CUPA should ensure that all hard copies submitted for scanning were scanned properly.

3. **Observation:** The CUPA has a single fee collection rate of 93%, 96%, and 98% for the last three fiscal years.

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**Recommendation:** None. The CUPA is able to collect its fees at a high rate and is encouraged to continue to do so.

4. **Observation:** Inspection report forms for all programs did not have consent to inspect the facility.

**Recommendation:** The CUPA is encouraged to include a consent statement on the inspection report, including the signature lines for a representative of the regulated business and the CUPA inspector. In the event that a formal enforcement action is necessary, the consent to inspect will validate the inspection and strengthen violation(s) made against the regulated facility.

5. **Observation:** The CUPA has been experiencing a shortage of staff to complete all of the mandated CUPA activities for the past few years; however, the CUPA has been able to continue the essential functions of the CUPA program while also providing fire prevention and safety services to the City. While efforts have been made to obtain additional staff, the CUPA has not had a significant increase in personnel due to high turnover rate. As a result, the CUPA has not been able to maintain other responsibilities of the CUPA that were deemed not a priority, including inspecting their hazardous waste generator program per the frequency specified in their Inspection and Enforcement Plan or continuing with their outreach to the public on pollution prevention services.

**Recommendation:** The CUPA is encouraged to continue to increase their resources by hiring more staff. The CUPA is also encouraged to train or cross-train (or at least give the option to train) the hazardous materials inspectors from the Engine Companies, with 4-year degrees, in hazardous waste inspections and other essential training so that they can be delegated to other CUPA functions.

6. **Observation:** The UST inspection checklist is basic in nature, and does not identify all of the elements that the inspector reviews at the site. The Significant Operational Compliance (SOC) items are not indicated on the checklist.

**Recommendation:** The SWRCB encourages the CUPA to improve the inspection checklist to be more comprehensive and to be inclusive of more compliance items. Identify the SOC items on the checklist. This will make compliance determination easier for tracking and reporting purposes.

7. **Observation:** The generator/TP checklists may be improved by referencing the citations from Title 22 and the Health & Safety Code.

**Recommendation:** Revise the generator/TP checklists to include citations so that business owners/operators may research the code themselves.



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8. **Observation:** The inspector did not access DTSC's Hazardous Waste Tracking System on the date of the oversight inspection. This would have enabled the inspector to obtain a list of manifests which should be maintained by the facility on site for review.

**Recommendation:** Please begin accessing the Department's Hazardous Waste Tracking System for future generator inspections to determine waste profiles and generation status from previous manifests sent. In addition, obtain a list of manifests and selectively compare to those found on site at the facility for the past three years as required by CCR Title 22 Section 66262.40.

9. **Observation:** The CUPA's Inspection Reports do not segregate Class I violations and chronic Class II violations under a Summary of Violations from minor violations under a Notice to Comply.

**Recommendation:** The CUPA may wish to modify its inspection report to segregate these elements in order to distinguish between enforcement modes for Class I, Class II and minor violations.

10. **Observation:** The CUPA was able to demonstrate that most complaints which were referred by DTSC from January 1, 2005 to February 01, 2007 were investigated. Follow-up documentation could be found for Complaints Nos. 06-0406-0178, 05-0605-0284, and 06-0606-0315, but not for 05-0205-0084 and 05-0705-0376.

**Recommendation:** Ensure that all complaints are being received by the CUPA from DTSC by providing the e-mail address of the person who should receive complaints to [slaney@dtsc.ca.gov] complaint coordinator. Investigate and document all complaints referred. Investigation does not always entail inspection, as many issues may be resolved by other means such as a phone call. In any instance, it is suggested that all investigations be documented, either by inspection report or by "note to file" and placed in the facility file. Please notify the complaint coordinator of the disposition of all complaints.

11. **Observation:** Review of the hard copy and electronic files for the Business Plan program was cumbersome. The CUPA is utilizing two data base systems, SEED and Laser Fische, and a hard copy, to file information submitted from businesses and paperwork completed by the CUPA that pertains to the businesses. In the SEED system, the CUPA inputs data from the current Business Plans submitted by businesses and then discards the Business Plan. The site maps are not always accessible in the seed system. Copies of Inspection Checklists are found in the Seed system and hard copy files. Archive records have been scanned into the Laser Fische. The hard copy file usually contains copies of the Seed system's owner/operator data. Sometimes the hard copy file will contain the Seed system's inventory data, and inspection checklists.

The evaluator had to peruse all the files, electronic and hard copy, to find:

- All the required elements for the business plan program, and
- To determine if a business has met their annual inventory and triennial business plan update requirements

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**Recommendation:** The current Business Plans should be kept in the hardcopy files for accessibility during inspections and public review. Ensure that files are complete and contain consistent information for all the businesses subject to the Business Plan Program.

- 12. Observation:** Fiscal 2005-2006 has transitioned the CUPA from several vacant positions to fully staffed. The Account Clerk position was re-filled at the beginning of the Fiscal Year. This allowed the Inspector that had been performing those accounting duties to return to service. However, the Account Clerk that was hired lasted only 3 months before promoting-out to another department. The Inspector had to once again, perform accounting duties and CUPA data entry for another month until another replacement was brought in. Finally, the CUPA now has a dedicated Account Clerk for the first time in years.

In addition, two replacement Inspectors were hired in September, 2005 to fill the vacancies created in the prior Fiscal Year. The CUPA had two senior staff pass the UST Inspector Exam. However, the CUPA's primary UST Inspector had a back injury and went off-duty for a couple months. Even though the CUPA had two new-hire Inspectors, the CUPA couldn't use them to inspect USTs. The Haz-Mat Specialist had to fill-in as the only other UST Certified Inspector. This came at a time of the highest-ever caseload that the Haz-Mat Specialist had, including Fire Prevention duties. The UST inspections were performed annually as required.

The CalARP sole inspector has now been promoted to Director of Fire Prevention Services, which includes the CUPA Program. The CUPA needs to hire someone to replace this inspector.

Over the last two fiscal years (04/05 & 05/06), the number of business plans have increased approximately 10 %. Despite the staff turnover, the CUPA was able to meet their inspection frequency requirements for the business plan program but at the expense of reducing the number of re-inspections of facilities cited for minor violations.

Engine companies perform the bulk of the hazardous materials inspections. At some of the more complex sites which are subject to multiple CUPA program elements, an Inspector or the Haz-Mat Specialist will accompany the Engine crew and perform a consolidated inspection.

**Recommendation:** Continue to hire more staff, to meet the CUPAs obligations to administer, inspect, and enforce all the CUPA programs.

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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. Despite staffing difficulties, the CUPA has maintained an inspection frequency of one inspection every two years for the business plan and the CalARP program elements. The CUPA director has performed many of the inspections himself in addition to his other responsibilities in fire prevention, emergency response, and in the CUPA Forum Board as a leading member.
2. The CUPA developed a very comprehensive self audit for fiscal year 2004-2005, which should be used as a guideline for future self-audits. Although some information is reiterated in more than one area, the FY 04/05 self-audit addressed all the elements necessary on a self-audit.
3. Bakersfield was the first CUPA to implement the AEO process. The AEO process was first implemented in 2000. The CUPA has executed at least 14 AEO cases to completion since 2000 with a total of approximately \$55,004 fines assessed. The CUPA was able to collect about 88% of the total penalty fines assessed for the AEO cases.
4. Inspector Howard Wines conducted the site inspection in a thorough and professional manner. His attention to detail and knowledge of code and regulations resulted in an excellent inspection. After a mechanical line leak detector failed the initial testing, Howard required the service technician to replace the detector and retest the line until passing results were obtained. Howard also asked for suggestions on how to improve his inspection technique and procedure.
5. The Bakersfield City Fire Department has developed an informative website providing UPCF forms, used oil collection request forms, a fee schedule, incident updates, press releases, a response log, safety messages, environmental regulations, the Bakersfield City Fire Code, hazardous waste inspection reports, and videos.
6. The Bakersfield City Fire Department held a UST Designated Operator Workshop on November 2, 2004.
7. The Bakersfield City Fire Department settled an administrative enforcement order against Whitewater Car Wash & Lube, Inc. for the illegal disposal of oily waste water to the sidewalk, storm drain, street, and ground for \$300.
8. The Bakersfield City Fire Department settled administrative enforcement order against the Kern Radiology Medical Group, Inc. for the illegal discharge of 100 gallons of industrial waste water having a silver concentration of up to 54 mg/l discharged to the sanitary sewer in violation of the City of Bakersfield Publicly Owned Treatment Works (POTW) industrial waste water discharge permit requirements and hazardous waste control laws.

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9. The Bakersfield City Fire Department settled an administrative enforcement order against Wholesale Fuels, Inc. for the illegal disposal of used oil to the sewers, drainage systems, and surface wasters for \$3000.
10. The Bakersfield City Fire Department settled an administrative enforcement order against Crystal Geyser Water Company for the illegal disposal of 4672 gallons of acidic industrial waste water to the City's POTW for \$2,250.
11. The Bakersfield City Fire Department settled an administrative enforcement order against CITA Development, Inc. for the illegal disposal of debris mixed with soil containing toxic lead to an unauthorized point for \$4000.
12. The Bakersfield City Fire Department settled an administrative enforcement order against Richard K. Newman & Associates for failing to submit copies of hazardous waste manifests to DTSC on 30 separate occasions for \$1000.
13. Even though the Pesticide Drift Protocols to be included into all CUPAs' Area Plans, as required by SB 391, has not yet been finalized, the CUPA incorporated suggested Pesticide Drift protocols for pesticide releases in their 2007 Area Plan revision.
14. The CUPA has been a staunch implementer and enforcer of the CalARP program within their jurisdiction. As a result of their determination to ensure all the stationary sources are in compliance with the CalARP program, no stationary source has had a release since 1997. Because of the release in 1997 was from a refrigeration stationary source (Anhydrous Ammonia) and the majority of the stationary sources within their jurisdictions had anhydrous ammonia in process, the CUPA became involved with Refrigeration Engineering and Technicians Association (RETA). The CUPA's relationship with RETA became symbiotic, for the CUPA educated RETA members on the Incident Command System and in turn the CUPA CalARP inspector became involved with RETA's industry certification training.